



# SHORELINE VARIANCE CRITERIA

## Planning & Community Development

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### SHORELINE VARIANCE (TYPE B ACTION)

1. **Purpose:** The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this program would impose unnecessary hardships on the applicant or diminish the policies set forth in RCW [90.58.020](#).
2. **Decision Criteria:** A variance shall be granted by the city, only if the applicant demonstrates all of the following:
  - A. The Director is authorized to approve a shoreline variance from the performance standards of this Master Program only when all of the criteria enumerated in WAC [173-27-170](#) are met.
  - B. A shoreline variance should be granted in circumstances where denial of the permit would thwart the policies enumerated in RCW [90.58.020](#).
  - C. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest will not suffer substantial detrimental effect.
  - D. The applicant for a shoreline variance must demonstrate that the variance meets the criteria in WAC [173-27-170](#).
  - E. Proposals that require a critical area reasonable use permit pursuant to SMC [20.30.336](#) shall also require a shoreline variance.
  - F. Prior to approval of any shoreline variance, the Director shall consider the cumulative environmental impacts of previous, existing, and possible future requests for like actions in the area. The total effects of approved shoreline variances should remain consistent with the policies of RCW [90.58.020](#) and shall not produce significant adverse effects to the shoreline ecological functions, processes, or other users.
  - G. Before making a determination to approve a shoreline variance, the Director shall consider issues related to the conservation of valuable natural resources and the protection of views from public lands.
  - H. Shoreline variance requests based on the applicant's/proponent's desire to enhance the view from the subject development may be granted where there are no likely detrimental effects to existing or future users, views from public lands, critical areas, other features or shoreline ecological functions and/or processes, and where reasonable alternatives of equal or greater consistency with this program are not available.
  - I. A shoreline variance shall not be granted when it would allow a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site.
  - J. A variance issued per SMC [20.30.310](#) shall not be construed to mean approval of a shoreline variance from Shoreline Master Program use regulations.
  - K. An issued shoreline variance does not provide relief from the variance requirements under SMC [20.30.310](#). (Ord. 668 § 4 (Exh. 3), 2013).

\*WAC 173-27-170 on back.

## **WAC 173-27-170**

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW [90.58.020](#).

- (1) Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW [90.58.020](#). In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
- (2) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW [90.58.030](#) (2)(b), and/or landward of any wetland as defined in RCW [90.58.030](#) (2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
  - (b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
  - (c) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
  - (d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
  - (e) That the variance requested is the minimum necessary to afford relief; and
  - (f) That the public interest will suffer no substantial detrimental effect.
- (3) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW [90.58.030](#) (2)(b), or within any wetland as defined in RCW [90.58.030](#) (2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
  - (b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and
  - (c) That the public rights of navigation and use of the shorelines will not be adversely affected.
- (4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW [90.58.020](#) and shall not cause substantial adverse effects to the shoreline environment.
- (5) Variances from the use regulations of the master program are prohibited.

[Statutory Authority: RCW [90.58.140](#)(3) and [90.58].200. WSR 96-20-075 (Order 95-17), § 173-27-170, filed 9/30/96, effective 10/31/96.]

The Development Code (Title 20) is located at [CodePublishing.com](http://CodePublishing.com)

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